

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.22351 of 2016
Date of decision:26.10.2016**

Harpal

...Petitioner

Versus

Chief Canal Officer, Bhakra Water Services, Irrigation and W.R.
Department, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Rajkapoor Malik, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 22.9.2016 (Annexure P-3) passed by the Chief Canal Officer, Haryana, upholding the order dated 20.7.2015 (Annexures P-2) passed by the Superintending Canal Officer and also the order dated 14.5.2015 (Annexure P-1) passed by the Divisional Canal Officer, Kaithal, thereby transferring 14 acres of land from RD 12100 L to RD 15313 R Harsola Minor, petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing the impugned orders.

Heard learned counsel for the petitioner.

It is a matter of record that respondent No.4 was not getting any irrigation to his fields for the last five years. As per official record available, the irrigation to these 14 acres of land was nil and it was due to non-availability of watercourse to the fields of respondent No.4.. Having been left with no other option, respondent No.4 moved the canal authorities

raising his grievance. The matter was enquired into and the grievance raised by respondent No.4 was found to be a genuine one and it was only 14 acres of land, which was stated to be transferred, which was less 0.75 CS of the total land, already irrigating from outlet RD 15313-R Harsola Minor.

It is also not in dispute that the canal authorities would be well within their jurisdiction to transfer the land up to 10% from one outlet to another outlet. After considering all these relevant aspects of the matter, including technical aspects thereof, Divisional Canal Officer, Kaithal, passed the order dated 14.5.2015 (Annexure P-1), transferring the land of respondent No.4 from RD 12100 L to RD 15313 R Harsola Minor, after granting opportunity of being heard to both the parties.

Petitioner felt aggrieved and filed his appeal, which came to be dismissed by the Superintending Canal Officer vide his order dated 20.7.2015 (Annexure P-2) and the further appeal was also dismissed by Chief Divisional Canal Officer vide his order dated 22.9.2016 Annexure P-3.

A bare combined reading of all these three orders passed by the respondent canal authorities would show that they did not commit any error of law, while passing their respective impugned orders. All the three impugned orders have been found based on cogent findings, which are supported by sound reasons.

Before passing the impugned order, the Chief Canal Officer reconsidered the matter, satisfied himself about the feasibility of the transfer of the land, owned by respondent No.4, considered the validity of the orders passed by the learned canal authorities and finally found that the order of transferring the land of 14 acres was the best suitable method to resolve the

issue. The operative part of the order passed by Chief Canal Officer, which deserves to be noticed here, reads as under:-

“Revenue missal, connected record, including khaka plan have been perused. Arguments of both the parties have been considered at length. It is observed that the average irrigation of area in question is nil due to non availability of watercourse from the existing outlet and the area in question is very far away from the existing outlet whereas the proposed outlet is very near to hand in question. As marked on the khaka plan a lined watercourse running at site along with the land of respondents from the outlet RD 15313/R Harsola Minor is best suitable for the land in question. So I find no merit in the appeal hence the same is dismissed and the decision of Superintending Canal Officer BWS Circle Kaithal dated 20.7.2015 is upheld.”

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality in any of the impugned orders passed by the respondent canal authorities. It is the settled proposition of law that the canal authorities are expert in their line. This Court would be slow in interfering in the orders passed by the canal authorities, while exercising its writ jurisdiction, unless the orders passed by the canal authorities are found patently illegal or perverse. Further, no prejudice of any kind, whatsoever, has been pointed out, which might have been caused to the petitioner.

However, it goes without saying that before implementing the impugned orders at the site, the respondent canal authorities shall follow the mandatory provisions of law.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders have not been found to be suffering from any patent illegality or perversity. Instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

26.10.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No